

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Susan D. Wigenton

v. : Criminal No. 09-265

ANTHONY PETERSON, : ORDER

JAMES HOLMES, and

ABDULLAH MUHAMMAD :

This matter having been opened to the Court on the application of defendant Anthony Peterson (Donald McCauley, Esq. and Patrick McMahon, Esq., appearing), with the consent of defendants James Holmes (Joseph R. Donahue, Esq., appearing) and Abdullah Muhammad (Gary L. Cutler, appearing), and the consent of Paul J. Fishman, United States Attorney for the District of New Jersey (Dennis C. Carletta, Assistant U.S. Attorney, and Lakshmi Srinivasan Herman, Assistant U.S. Attorney, appearing), and good cause having been shown, the Court makes the following findings:

1. The physical evidence in this case is sufficiently extensive and, due to the nature of the prosecution, it is unreasonable to expect adequate preparation for pretrial proceedings and trial within the time limits established by Title 18, United States Code, Section 3161;

2. The voluminous evidence in this case consists, in part, of DNA, forensic, ballistic and fingerprint testing of multiple evidentiary items requiring an extensive amount of laboratory and expert analysis. The government has provided extensive discovery to date reflecting its testing and analysis of numerous evidentiary items. The defense will require

sufficient time to review all of the findings and to obtain, if necessary, its own expert analysis of same. Failure to grant a continuance would deny counsel for defendants reasonable time necessary for effective preparation of this case, taking into account the exercise of due diligence;

3. That, in light of anticipated delays for laboratory and expert analysis of voluminous evidentiary material, an extension of time is required for defendants to prepare appropriate legal memoranda in connection with anticipated pre-trial motions that may require a hearing;

4. That the Court finds, for purposes of excluding time under 18 U.S.C. § 3161(h)(1)(F) of the Speedy Trial Act, that the additional extension of time for argument of pre-trial motions currently scheduled for February 22, 2010, is reasonably necessary to make defendants' anticipated applications ready for judicial determination, and that the additional extension of time for trial, currently scheduled for February 23, 2010, is reasonably necessary to enable counsel for all parties to adequately prepare for trial;

5. That attorneys for the defendants and the government have consented to an adjournment of these proceedings by virtue of a telephone conference with Chambers on January 26, 2010;

6. That as a result of the anticipated and significant delays referenced above, the parties will require additional time to consider plea negotiations, which if contemplated and if successful would render the presentation of this matter to a jury for trial unnecessary;

7. That the grant of a continuance would likely conserve judicial resources; and that

8. The ends of justice served by a continuance of the current trial date in this matter outweigh the interest of the public and the defendants in a speedy trial.

IT IS, therefore, on this 1ST day of February, 2010,

ORDERED that the trial date in this matter is continued until June 14, 2010, and that the period of time from January 25, 2010, through June 14, 2010, shall be excluded for the purposes of computing time under the Speedy Trial Act pursuant to 18 U.S.C. §§ 3161(h)(8)(A), (h)(8)(B)(ii), and (h)(8)(B)(iv); and it is further

ORDERED that:

1. Defendants shall file pretrial motions on or before May 17, 2010;
2. The government shall respond to such motions on or before May 31, 2010;
3. Oral argument for pretrial motions, if necessary, shall be held on June 7, 2010, at 10:00 a.m.; and
4. Trial shall commence on June 14, 2010, at 10:00 a.m.

SO ORDERED:



HON. SUSAN D. WIGENTON
United States District Judge